

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

October 18, 1994

93-22

IN REPLY REFER TO:

EX PARTE OR LATE FILED

RECEIVED

OCT 18 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

The Honorable Kay Bailey Hutchison
U.S. Senator
Attention: Mary Fae Kamm
10440 N. Central Expressway
Suite 1160
LB 606
Dallas, TX 75231

DOCKET FILE COPY ORIGINAL

Dear Senator Hutchison:

This letter responds to your correspondence on behalf of Ann Hickman regarding charges on her telephone bill and relating to information services provided on 800 numbers. Your letter, as well as the complaint of your constituent, has been referred to the Enforcement Division of the Common Carrier Bureau for review. The Enforcement Division will communicate with your constituent upon completion of its review.

The Telephone Disclosure and Dispute Resolution Act (TDDRA) was enacted by Congress in 1992 and required both the Federal Communications Commission and the Federal Trade Commission (FTC) to adopt rules governing the provision of pay-per-call services. Under the TDDRA, the FCC has jurisdiction over the telecommunications carriers involved in the transmission and billing of the telephone calls, while the Federal Trade Commission has jurisdiction over the information service companies themselves.

The TDDRA generally required pay-per-call services to be provided on 900 telephone numbers and generally prohibited the provision of these services on 800 numbers, except in instances where the caller has entered into a presubscription agreement or comparable arrangement with the information service provider. Pursuant to the Commission's rules, which became effective on September 24, 1993, a presubscription agreement entails a formal contractual understanding whereby the consumer is provided clearly and conspicuously all terms and conditions associated with the use of the service and affirmatively agrees to abide by them.

The Commission has received numerous complaints similar to those described by your constituent. These complaints are processed by the Enforcement Division of the Common Carrier Bureau by serving a copy of the complaint upon the telecommunication carriers involved, who must generally respond in writing within 30 days. Beyond reviewing these

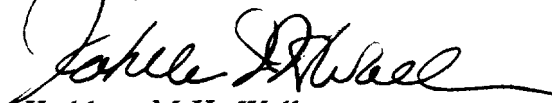
No. of Copies rec'd 1
List ABCDE

complaints and pursuing appropriate action to resolve them, the Commission has undertaken several efforts. First, Common Carrier Bureau staff has met with the carriers that provide the billing service for calls to 800 numbers as well as interexchange carriers who provide the 800 number transport to emphasize their obligations under the TDDRA and the rules of the Commission. Secondly, because the increase in the number of complaints has been so significant, we have started an investigation of these practices, with special focus on whether any companies have attempted to evade or violate our rules. Additionally, as part of the effort to make clear the carriers' responsibilities under the law, the Common Carrier Bureau has recently issued a ruling holding that the information provider's receipt of the originating telephone number, a practice that was serving as the premise of some charges, does not in itself constitute a presubscription agreement.

Moreover, on August 2, 1994, the Commission instituted a Notice of Proposed Rulemaking seeking to strengthen Commission rules to prevent abusive and unlawful practices under the TDDRA. Specifically, the Commission has sought public comment on a proposal to require that a presubscription agreement be established only with a legally competent individual and executed in writing, and that common carriers obtain evidence of the written agreement before issuing a telephone bill that contains charges for presubscribed information services. Under the proposed rules, these telephone bills could be addressed only to the individual who actually entered into the presubscription arrangement, not to the person or company whose telephone was used to place the call. The Commission has tentatively concluded that this and other proposed changes would significantly assist in eliminating the source of many consumer complaints. Enclosed is a summary of the Commission's action in this regard.

We appreciate receiving your correspondence. Please call upon us if we can provide any additional information.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kathleen M.H. Wallman", with a long, sweeping horizontal line extending to the right.

Kathleen M.H. Wallman
Chief
Common Carrier Bureau

Enclosure

KAY BAILEY HUTCHISON
TEXAS

United States Senate

WASHINGTON, DC 20510-4304

COMMITTEES:
ARMED SERVICES
SMALL BUSINESS
COMMERCE, SCIENCE,
AND TRANSPORTATION

ccb
cc-800
cc-900
40/15

August 12, 1994

RESPECTFULLY REFERRED TO:

Legislative Affairs Director
Federal Communications Commission
Room 857, 1919 M. Street, NW
Washington, D.C. 20554

The attached communication was forwarded to me by a constituent who is concerned about a matter that falls within your agency's jurisdiction. I would appreciate it if appropriate inquiries could be initiated on their behalf, and if a full response could be prepared for me to report to my constituent.

It would be very helpful if the attached were to accompany your response. In the event you require more information, please do not hesitate to contact my Director of Constituent Services, Mary Fae Kamm, in Dallas at 214-361-3500.

Thank you for your courtesy.

By direction of:

KAY BAILEY HUTCHISON

PLEASE REPLY TO:

Office of Senator Kay Bailey Hutchison
Attention: Mary Fae Kamm
10440 N. Central Expressway, Suite 1160
LB 606
Dallas, Texas 75231

Enclosure

AUG 08 1994

FRANK MARR
P.O. Box 105 B
Royse City, TX
75189

Senator Hutchinson:

I am writing concerning 800 numbers given out on T.V. When a child dials the number, it is transferred to a 900 Charge no.

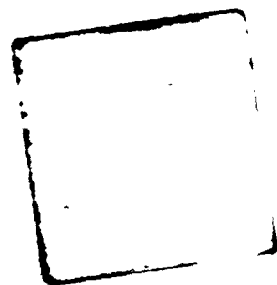
I am enclosing some of the bills I received. My grandchild is the one that called the "800*", not having any idea what he is getting into.

We did 800* for business. London, ect. I was under the impression that all 800* were free.

This is a con game and a long around all the 900* I hope people had put on. We did this years ago to be sure we never had a problem. They have found a way around it.

The telephone company tells me
they cannot do anything about
it, their hands have been tied
by the laws passed to give these
kinds of people free access to
to lines.

One company removed all
charges & put a hold on my line
the other tried to threaten me
saying my grandson had made the
"by not telling them his age.
am not planning on paying
i company's bill "4800.3733242"
"then they said they would per-
collection agency on it. This need
be changed, even though I know
child will never call on 800 &
I have 7 grandchildren younger
it is always possible one
ten years down the road could



pick up the phone: make the
same mistake.

I am sure that I am
just one of the many thousands
of people that this happens to.

As our ~~to~~ Senate ~~can~~ ...
these people should have to
put the 900 numbers up not
800 numbers.

Thank you
Ann Hubman
214-6369016